

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RICHARD GLOSSIP, et al.,)
)
Plaintiffs,)
)
-vs-) Case No. CIV-14-0665-F
)
RANDY CHANDLER, et al.,)
)
Defendants.)

ORDER

Two motions filed by Rhonda Kemp, sister of plaintiff Wade Lay, are before the court. The first is Rhonda Kemp’s “Motion to Amend, Alter and/or Vacate Judgment Denying Petition for Appointment of Next Friend for Plaintiff Wade Lay.” Doc. no. 499. This motion is brought under Rule 59(e), Fed. R. Civ. P. The second motion before the court is Kemp’s “Motion to Join Plaintiff Wade Lay in Plaintiffs Donald Grant, John Grant, Julius Jones, and Gilbert Postelle’s Motion and Brief in Support for Preliminary Injunction.” Doc. no. 510 (seeking to add Lay as a movant on doc. no. 506).

Defendants have responded to both motions, stating they object to the requested relief. Doc. nos. 517, 518. Earlier in these proceedings, all plaintiffs other than Lay stated they do not oppose Kemp’s appointment as Lay’s next friend. Doc. no. 481. These other plaintiffs have also stated that they do not oppose adding Lay as a movant to D. Grant, J. Grant, Jones and Postelle’s pending motion for preliminary injunction. Doc. no. 511.

Defendants state various reasons for their objections to Kemp's Rule 59(e) motion, all of which have been considered. That said, the state's interest in Kemp's appointment is somewhat attenuated; the predominate interest the court takes into account is that of the individual litigant. Lay has now filed a notice for the express purpose of informing the court it misconstrued Lay's position regarding Kemp's original petition to appear as Lay's next friend. The title that notice is: "In re Filing to Inform the Court Wade Lay Does Not Oppose or Object to Miss Rhonda Kemp as Next-friend or the Motion for Next-Friend by Attorneys at the F.P.D. in OKC. Next Friend Should be Granted!" Doc. no. 501, p. 1. The text of the notice begins as follows: "This W.D. Court has misconstrued Wade Lay's response when it rules that Lay objects to the next friend motion...." *Id.* at p. 2.

Based on the record, there are grounds for granting Kemp's Rule 59(e) motion, and also for adding Lay as a movant on the pending motion for a preliminary injunction. Therefore, after careful consideration, both of Kemp's motions are **GRANTED**. Doc. nos. 499, 510.

As a result, the court's earlier ruling which denied Kemp's petition for appointment as Lay's next friend is **VACATED** (doc. no. 492), and Kemp's "Petition for Appointment of Next Friend for Plaintiff Wade Lay" is **GRANTED**. Doc. no. 462. Under Rule 17(c)(2), Fed. R. Civ. P., Rhonda Kemp is hereby **APPOINTED** next friend for plaintiff Wade Lay, for purposes of this action. The clerk is **DIRECTED** to change Kemp's status on the docket sheet from "interested party" to "next friend for plaintiff Wade Lay." Lay, at the request of Kemp acting as his next friend, is hereby **JOINED** as an additional movant on the "Motion and Brief in Support for Preliminary Injunction on Behalf of Plaintiffs Donald Grant,

John Grant, Julius Jones, and Gilbert Postelle” (doc. no. 506, set for hearing at 9:00 a.m. on Monday, October 25, 2021).

Kemp has notified the court that if she is appointed next friend for Lay, she will engage the legal services of Crowell & Moring, LLP. Doc. no. 510, p. 2. Crowell & Moring has agreed to provide these legal services, stating that if Kemp’s petition is granted, it will represent Lay in this action through Kemp acting as his next friend. Doc. no. 465. Crowell & Moring is **DIRECTED** to enter its appearance for that purpose before 9:00 a.m., October 25, 2021.

Lastly, the court addresses an earlier filing by Lay, docketed in this court on October 18, 2021. Doc. no. 503. This document appears to have been intended as an attachment to other material filed by Lay. *See* doc no. 502. Regardless, it has been docketed as a motion because it is entitled “Petitioner’s Motion for Stay of Execution Pending Appeal With Order for Evidentiary Hearing to Ascertain the Truth in This Complicated Matter for the Purpose to Avoid a Manifest Injustice – Rule 8(a)(1)(A) (with Brief in Support).” This motion is brought under Rule 8(a)(1)(A), Fed. R. App. P., and seeks a stay of execution in light of a purportedly pending appeal. There is no pending appeal, and this motion is **STRICKEN** on that ground.

DATED this 22nd day of October, 2021.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE